



FH
[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION
Case #: FOO - 175955

PRELIMINARY RECITALS

Pursuant to a petition filed on August 1, 2016, under Wis. Admin. Code § HA 3.03(1), to review a decision by the Marinette County Department of Human Services regarding FoodShare benefits (FS), a hearing was held on September 6, 2016, by telephone.

The issue for determination is whether the agency erred in its reduction of petitioner's FS allotment to \$115 effective September 1, 2016.

There appeared at that time the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

[REDACTED]

Respondent:

Department of Health Services
1 West Wilson Street, Room 651
Madison, WI 53703

By: [REDACTED]
Marinette County Department of Human Services
Wisconsin Job Center Suite B
1605 University Drive
Marinette, WI 54143

ADMINISTRATIVE LAW JUDGE:

John P. Tedesco
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Marinette County.
2. Petitioner has been enrolled in FS since 2006.

3. Petitioner's W2 benefits ended in February 2016 as a result of petitioner receiving SSDI.
4. Petitioner received transitional FS for five months after her W2 benefits ended.
5. Petitioner receives \$410 for her daughter's SS Surviving Child benefit. Petitioner also receives \$1,133 in SSDI. Petitioner has mortgage and property tax liability of \$818.11 per month.
6. Following the expiration of the transitional FS, the agency calculated the allotment for the 2-person household at \$115.
7. Petitioner appealed.

DISCUSSION

Petitioner's explained at hearing that she does not understand why her FS was recently reduced. She failed to identify and specific error by the agency, however.

Transitional FoodShare (TFS) benefits automatically extend the FoodShare (FS) benefit eligibility for 5 months for a FS household when Wisconsin Works (W-2) benefits end under certain conditions. *FoodShare Wisconsin Handbook*, §5.1.1. The TFS benefit amount "...is calculated using the income (less the W2 payment), expenses, and food group size from the month prior to the last W-2 cash payment (benefit determination month). This amount is frozen for the next 5 consecutive months." *Id.*, §5.1.1. Generally, a TFS group is not required to report changes during the 5 month period. *Id.* at §5.1.1.1. A TFS household may, however, ask for recertification for regular FoodShare benefits at any time during the 5 month automatic extension. *Id.*, §5.1.1.6.

In this case, petitioner's FS allotment under the transitional FS program was \$357. TFS ended in August 2016. The agency renewed the FS eligibility using the new unearned income figures and budget as reflected on the FS budget screen in exhibit 1. The agency used numbers for income and shelter costs that were confirmed by petitioner at hearing. Petitioner failed to articulate any error and only made vague references to her suspicions that the surviving child benefits are being counted twice, or that she is not getting the correct utility standard. From my review of the budget I see no errors. It appears that the petitioner's net income was correctly figured at \$805.89. The correct FS allotment for that net income for a household of 2 is \$115 per *FS Eligibility Handbook* § 8.1.2.

Petitioner appears to have been confused by the significant drop from \$357 to \$115, but that was due to the expiration of the transitional FS benefits which is only in place for five months. The current allotment is based on FS rules and budgeting. Petitioner no longer can benefit from TFS.

CONCLUSIONS OF LAW

The agency correctly calculated petitioner's current FS allotment at \$115.

THEREFORE, it is

ORDERED

That this appeal is dismissed.

REQUEST FOR A REHEARING

You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received within 20 days after the date of this decision**. Late requests cannot be granted.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400 **and** to those identified in this decision as "PARTIES IN INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.

The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or at your local library or courthouse.

APPEAL TO COURT

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, **and** on those identified in this decision as "PARTIES IN INTEREST" **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Madison,
Wisconsin, this 30th day of September, 2016

\s _____
John P. Tedesco
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

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The preceding decision was sent to the following parties on September 30, 2016.

Marinette County Department of Human Services
Division of Health Care Access and Accountability